

October 23, 2014

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Notice of Ex Parte – WC Docket No. 10-90 and WT Docket No. 10-208 –
Adak Eagle Enterprises, Adak Telephone Utilities, and Windy City Cellular**

Dear Ms. Dortch:

This letter provides information regarding a recent discussion that Monica Desai of Squire Patton Boggs (US) LLP, counsel to Adak Telephone Utility, LLC (ATU), and Windy City Cellular, LLC (WCC) (collectively, Adak Eagle Enterprises or the Companies), had with Doug McKalip, Senior Policy Advisor for Rural Affairs, White House Domestic Policy Council, and Kevin Bailey, Policy Assistant, White House Domestic Policy Council. The purpose of the meeting was to discuss how a grant of the waiver petitions submitted by ATU and WCC¹ would be consistent with the President's overarching emphasis on supporting remote, hard-to-serve communities such as Adak Island, Alaska; the efforts being made by agencies across the government to better serve Americans living in such remote areas; and the President's recognition that service to Alaska poses a particularly unique challenge.

The White House National Strategy for the Arctic Region² and related Implementation Plan,³ as well as a Notice of Inquiry released by the Administration earlier this month to seek

¹ Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.* (May 22, 2012)(AEE Waiver Petition); Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, *et al.* (Apr. 3, 2012).

² National Strategy for the Arctic Region (May 2013)(available at: http://www.whitehouse.gov/sites/default/files/docs/nat_arctic_strategy.pdf). The National Strategy for the Arctic Region articulates the President's focus on serving remote Alaskan communities. *Id.* at Introduction signed by President Barack Obama, and at 2, 4 (May 2013)(Arctic Region Strategy).

³ Implementation Plan for The National Strategy for the Arctic Region (Jan. 2014)(available at: http://www.whitehouse.gov/sites/default/files/docs/implementation_plan_for_the_national_strategy_for_the_arctic_region_-_fi....pdf)(Implementation Plan).

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comment on the adequacy of communications services to such rural areas,⁴ reflect this focus. All emphasize the importance of robust communications in remote areas of Alaska to facilitate critical emergency communications, support economic development, and fulfill the mandate and promise of universal service. All of these are important Commission goals as well.

It took grit, determination, years of careful planning, and creativity to build out a communications network under the conditions present on Adak Island, Alaska: extremely remote location (an island 1,200 miles southwest of Anchorage, making transportation extremely expensive as heavy supplies and equipment must be shipped in by barge);⁵ extreme climate (frequent cyclonic storms with wind gusts in excess of 100 knots, extensive fog storms in the summer, average accumulated snowfall of 100 inches – making building and maintenance extremely expensive);⁶ extreme other conditions (in the vicinity of an active volcano, in an earthquake zone, in a tsunami zone), and other factors (saturated with active bombs dating back to World War II – complicating digging and trenching; infestation by large Norwegian rats that chew through cable – requiring the use of expensive armored cable; high energy costs, with electricity rates increasing by approximately 85% since 2010), building and maintaining a working wireline, wireless, and broadband communications system, including a working public safety system, is risky, difficult, and expensive. In such a climate – extreme even by Arctic standards – the Administration and the Commission have recognized that supporting a robust telecommunications system can literally be the difference between life and death in an emergency, and longer term, the economic life and death of a rural community.

Emergency Response: “Facilitating emergency response,” and facilitating “new facility and equipment installations such as mobile cellular base stations, and fiber optic cable installations that enhance security and safety” are important components of the Implementation Plan.⁷ Moreover, the Administration has recognized that “reliable” communications services are “critical to the safety and security” of the Arctic region.⁸ AEE has time and time again facilitated emergency response

⁴ Telecommunications Assessment of the Arctic Region, *Notice of Inquiry*, 79 Fed. Reg. 59746, 59746 (Oct. 3, 2014)(NTIA NOI).

⁵ In a recent blog post, Commissioner O’Rielly noted some of the difficulties inherent to serving rural Alaska, explaining that he “flew for hours over the southwestern portion of the state without spotting a single road. That means supplies must be shipped in by airplanes, helicopters, boats, or barges, and these services may be available only by charter making deliveries both infrequent and expensive.” Alaska: Lessons Learned, Blog Post Entry by Commissioner O’Rielly (Sept. 5, 2014)(available at: <http://www.fcc.gov/blog/alaska-lessons-learned>).

⁶ Commissioner O’Rielly’s blog post entry went on to note “[a]nd then there are the weather challenges. For up to nine months out of a year, Alaskans can experience what reminds me of some of the worst weather days in my hometown of Buffalo, resulting in substantially shortened construction and repair seasons. These factors, combined with a population distribution heavily skewed towards Anchorage, make serving the sparsely populated rural and isolated areas very complicated.” *Id.*

⁷ Implementation Plan at 6-7.

⁸ NTIA NOI, 79 Fed. Reg. at 59748.

through its network and in particular, through WCC – the most comprehensive wireless service on the Island:

- All communications on the Island, including all e911, and all wireless cellular service, are dependent on the ATU fiber network. There is no other wireline provider on the Island; without the requested waiver, there will be no wireline, wireless, or broadband service on the Island.
- As confirmed by Layton Lockett, City Manager of the City of Adak, AEE provides the only reliable 911 service on the Island.⁹
- WCC has constructed two cell towers on the Island, including the newer White Alice site, which supports critical cellular service in areas of the Island where no other provider has facilities or service, and which has been instrumental in emergency situations. For example:
 - An 8.0 magnitude earthquake hit Adak Island in June. All of the approximately 300 adults and children on the Island were evacuated to Bering Hill. Due to the White Alice site, WCC service was the only cellular service available while the evacuees awaited information regarding whether the Island would be hit by a tsunami, and whether public safety officials had cleared them to return to lower ground.¹⁰

⁹ Mr. Lockett has explained in two separate declarations that WCC's competitor on Adak Island, GCI, does not provide sufficient service on the Island, and does not provide adequate 911. Mr. Lockett stated that he had "experimented with using GCI wireless service for the mobile 911 system" but that the City "immediately abandoned using that service less than a week later when their network went down." Adak Eagle Enterprises, LLC and Windy City Cellular, LLC Application for Review at Exhibit 2 – Layton J. Lockett Declaration, *Petitions for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90 and WT Docket No. 10-208 (Aug. 14, 2013). He explained having to "plea with the senior [GCI] management in Unalaska for them to reboot the network as they had no on-island presence" and explained that public safety personnel "could not answer any emergency calls while their network was down." *Id.* After that experience, he "cancelled that experiment as WCC has 24/7 staff on island that can respond immediately." *Id.* Mr. Lockett confirmed in a separate Declaration that the 911 service provided by GCI is "inadequate and unreliable." Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Reply to Opposition to Petition for Reconsideration at Exhibit 4 – Second Declaration of Layton J. Lockett, *Petitions for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90 and WT Docket No. 10-208 (Sept. 9, 2013)(Reply to Opposition). He stated that "GCI has a history of being unresponsive when asked by the City of Adak for assistance with its service and has no technicians on the Island to respond to service outages." *Id.* Mr. Lockett notes that by contrast, AEE works "closely with the City of Adak and its Department of Public Safety to provide prompt, reliable assistance with its 911 service whenever requested." *Id.* He further emphasized the importance of AEE having "technicians on Adak Island to support their 911 service and respond to any service outages if necessary." *Id.*

¹⁰ Adak Eagle Enterprises, LLC, and Windy City Cellular, LLC, *Notice of Ex Parte*, WC Docket No. 10-90 and WT Docket No. 10-208 (June 24, 2013).

- Last year, the White Alice site was instrumental in facilitating the emergency rescue of an individual who had become lost in blizzard conditions on Adak Island. Without the White Alice site, the individual would not have had wireless service and would not have been able to call 911 to alert the search and rescue party of his location.¹¹
- The Marine Exchange of Alaska has noted in a filing before the FCC that AEE – through its wireless affiliate, WCC – played an important role in a rescue where five fishermen were “stranded on a life raft 69 miles west of Adak Island after their vessel caught fire in the Bering Sea.”¹² WCC’s cellular system facilitated the U.S. Coast Guard’s use of the Marine Exchange’s vessel location detection system.¹³ As a result, the Coast Guard was able to “quickly identify and communicate with a vessel of opportunity and coordinate their assistance in [a] successful rescue operation.”¹⁴ In fact, according to the Marine Exchange of Alaska’s Chief Technology Officer, “[w]ithout the services and facilities provided by AEE and WCC, which are vital to the Marine Exchange’s operations on Adak, this successful rescue, no doubt, would have ended much differently.”¹⁵
- Because Adak Island is saturated with bombs dating back to World War II, EDOT workers must conduct annual bomb search, detonation, and removal work on the Island, performing their mission in locations outside of downtown Adak, and serviced solely by the White Alice cell site.
- In August, a sharp increase in Russian nuclear bombers and fighter jets was reported near the US airspace over the Alaska Air Defense Zone, which includes Adak.¹⁶ In an emergency event involving foreign aggression, it would be critically important for residents to have a working 911 system and cellular coverage beyond a limited portion of downtown Adak.

The wireline and wireless service provided through AEE have proven critical to the safety and security of the population living and working on, and visiting Adak Island. If the Commission fails to grant the requested waiver for WCC, the White Alice site would be shut down and the Island would be left without any cellular coverage beyond a limited portion of downtown Adak – resulting

¹¹ Adak Eagle Enterprises, LLC, and Windy City Cellular, LLC, *Notice of Ex Parte*, WC Docket No. 10-90 and WT Docket No. 10-208 (Feb. 28, 2013).

¹² Letter from Bill Benning, Chief Technology Officer, Marine Exchange of Alaska, to Marlene H. Dortch, Secretary of the Federal Communications Commission (Oct. 28, 2013) (Marine Exchange Letter).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Michael Winter, *Russian bombers increase flights near U.S. airspace*, USA Today, Aug. 7, 2014 (available at: <http://www.usatoday.com/story/news/world/2014/08/07/russia-bombers-arctic/13746681/>).

in severe public safety risks. Without WCC, evacuees on Bering Hill would not have had cellular service; the person rescued in blizzard conditions would otherwise have perished; the five fishermen rescued from their life raft after their vessel caught fire would likely not have been found; EDOT personnel would have no service in areas performing dangerous detonation work; and subsistence hunters and fisherman would not be able to keep in communications while hunting and fishing in remote areas characterized by unpredictable climate conditions. Denying a waiver to WCC would undermine public safety on the Island, and would be counter to the expressed public safety goals of the Administration, as well as the Commission.¹⁷

Economic Development: The Administration has recognized that effective and robust communications services are fundamental to “commercial, residential, governmental, and other critical economic and social activities across Arctic Alaskan communities” and that such communications networks “will contribute to small business development, economic growth, and corresponding employment increases.”¹⁸ ATU and WCC are tiny companies that have worked tirelessly against the odds to provide quality, reliable service to remote Adak Island when no one else would¹⁹ – exhibiting the exact “entrepreneurial spirit” the President hopes to encourage in the Administration’s rural initiatives.²⁰ Larry Mayes, the founder of AEE, has the very same “pioneering

¹⁷ As AEE has noted previously, it was encouraged by various comments of the Chairman and Commissioners regarding the importance of public safety and universal service. For example, at his confirmation hearing, Chairman Wheeler emphasized the importance of universal service and public safety as fundamental American values. *See, e.g.,* Adak Eagle Enterprises, LLC, and Windy City Cellular, LLC, *Notice of Ex Parte* at 1, WC Docket No. 10-90 and WT Docket No. 10-208 (Nov. 4, 2013). Similarly, Commissioner Clyburn’s remarks at a Federal Communications Bar Association (FCBA) luncheon noted that ensuring the accessibility of universal service – including universal wireline service – and enabling reliable 911 service for public safety are core pillars of the FCC’s mission. *See* Prepared Remarks of Acting Chairwoman Mignon Clyburn to FCBA Luncheon, at 3, 6, 11 (Sept. 24, 2013), *available at:* <http://www.fcc.gov/document/acting-chairwoman-clyburns-remarks-fcba-luncheon>. Also in remarks presented at an FCBA luncheon, Commissioner Rosenworcel made comments reiterating the importance of public safety, the value of wireline service, the need for universal service for all Americans regardless of where they live, and the unique challenges of providing service in areas such as remote Alaska. Adak Eagle Enterprises, LLC, and Windy City Cellular, LLC, *Notice of Ex Parte*, WC Docket No. 10-90 and WT Docket No. 10-208 (Oct. 30, 2013); *see also* Remarks of Commissioner Jessica Rosenworcel at the Rural Telecom Industry Meeting & Expo (Feb. 4, 2013), *available at:* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-318723A1.pdf (same).

¹⁸ NTIA NOI, 79 Fed. Reg. at 59748.

¹⁹ *See* Adak Eagle Enterprises, LLC, *Notice of Ex Parte* at Attachment 1 – Adak Telephone Utility Story at 2, WC Docket No. 10-90 and WT Docket No. 10-208 (July 25, 2014).

²⁰ *See President Talks Rural*, Interview with David Burns of The Daily Yonder, (Aug. 19, 2011)(*available at:* <http://www.dailyyonder.com/president-talks-rural-doug/2011/08/18/3484/>) (“I just had a rural forum in Iowa . . . and I think there are so many strengths in rural America — hard-working people, great values, an *entrepreneurial spirit*. The challenge is in a lot of these communities

spirit [that] is naturally drawn” to Alaska, and that the President recognized in the National Strategy for the Arctic Region.²¹ Unlike others who refused to undertake the risky and difficult task of building a communications system for Adak Island,²² Mr. Mayes saw “the economic opportunities [the region] present[ed]”²³ in developing the fiber network supporting all communications on the Island. These communications services have been fundamental to sustaining the economic development of Adak Island, and supporting communications for the numerous workers in the region.

In fact, more than 16 businesses, government agencies, and other organizations have filed letters in support of the petitions filed by AEE and WCC, explaining how important the Companies’ work is to creating local jobs, supporting development on the Island, and facilitating the provision of various services, including public safety and day-to-day government operations.²⁴ The Companies have supported the local economy by:

they have not been connected to the market, and there hasn’t been a comprehensive strategy for helping them grow and succeed.”).

²¹ Arctic Region Strategy at Introduction.

²² See *supra* note 19 (explaining that two or three large telecommunications companies were asked to provide service on the Island, but declined to do so after touring the facilities and observing the conditions attendant to providing service on Adak, notwithstanding their extensive experience serving hard-to-serve rural areas).

²³ Arctic Region Strategy at Introduction.

²⁴ See Letter from Sen. Lisa Murkowski, Sen. Mark Begich, and Congressman Don Young, to Chairman Thomas Wheeler, and Commissioners Mignon Clyburn, Jessica Rosenworcel, Ajit Pai, and Michael O’Rielly, Federal Communications Commission (Aug. 1, 2014)(2014 Congressional Delegation Letter). See also Letter from Sen. Lisa Murkowski, Sen. Mark Begich, and Congressman Don Young, to Acting Chairwoman Mignon Clyburn, Federal Communications Commission (Oct. 17, 2013); Letter from Sen. Lisa Murkowski, Sen. Mark Begich, and Congressman Don Young, to Chairman Julius Genachowski, Federal Communications Commission (Apr. 20, 2012); May 31, 2013 Ex Parte at Attachment 3; the City of Adak; Marine Exchange of Alaska (first of two); Aleut Corporation; Adak Community Development Corporation; Alaska Maritime National Wildlife Refuge, U.S. Department of the Interior, Fish and Wildlife Service; Icicle Seafoods, Inc.; Eastern Aleutian Tribes; National Telecommunications Cooperative Association; U.S. Geological Survey; Southwest Alaska Municipal Conference; and the Adak Police Department); See Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, *Notice of Ex Parte* at Declaration of Elaine Smiloff, WC Docket No. 10-90, *et al.* (Sept. 12, 2013); Reply of NTCA – The Rural Broadband Association and the Western Telecommunications Alliance to Opposition of General Communication, Inc., WC Docket No. 10-90 and WT Docket No. 10-208 (Sept. 9, 2013); Letter from Shannon M. Heim, Counsel, Alaska Rural Coalition, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90 and WT Docket No. 10-208 (Sept. 19, 2013); Letter from John Charles Padalino, Administrator, Rural Utilities Service, to Acting Chairwoman Mignon Clyburn, FCC, WT Docket No. 10-208, *et al.*, at 3 (Aug. 14, 2013) (Aug. 2013 Padalino Letter); Oct. 2013 Marine Exchange of Alaska Letter (second of two); Letter from David Honig, President of MMTTC, *et al.*, to the

- Bolstering jobs. In addition to AEE's regular local employees, "in constructing the second tower at White Alice, WCC employed 10 local people to construct the site and bring it online while also completing the installation in one construction session."²⁵

- Implementing critical infrastructure changes. In a letter to the Commission supporting the Companies' waiver petitions, the City Manager of Adak noted that "[a]t the time of the transfer [from Adak being a Naval Air Facility to becoming property of the native Aleut Corporation] the Island's basic infrastructure including but not limited to the water, sewer, electrical and telecommunications systems were determined to be deficient and in severe need for upgrading. Of all these items, only the telecommunications systems have been upgraded, wholly due to AEE's ability to secure USF funding and RUS loans."²⁶

- Providing organizations and government agencies the technology required to complete critical work. For example, the Marine Exchange of Alaska's "tracking system is relied on by the Coast Guard, State of Alaska and the maritime community to aid maritime safety and emergency response. The operation of this vessel tracking . . . is very dependent on the power and internet connectivity that AEE and Windy City provide."²⁷

In their letters, the organizations highlighted the importance of AEE and WCC receiving the waivers the Companies have requested. Without a waiver, the overall safety, growth, and economic development of Adak are at risk:

Without a waiver, the consequences of the FCC Order on AEE and WCC will be felt by nearly the entire island of Adak, including [The Aleut Corporation] and its subsidiaries, and critical government entities including the U.S. Fish and Wildlife Service, The City of Adak, the Marine Exchange (which is responsible for monitoring fishing vessels in the Bering Sea and the Pacific Ocean), the USGS Albuquerque Seismological Laboratory, and the Alaska Volcano Observatory, as well as government contractors, tourists, hunters, and fishermen. The overall safety, growth and economic development of this remote island will be jeopardized.²⁸

The entire Alaskan Delegation has spoken out in support of the Companies as well, writing no less than three letters urging the Commission to grant the waiver petitions.²⁹ In short, the

Honorable Mignon Clyburn, Acting Chairwoman, FCC, *et al.*, WC Docket No. 10-90 and WT Docket No. 10-208 (Oct. 28, 2013).

²⁵ Letter from Layton J. Lockett, City Manager, City of Adak, Alaska, to Marlene H. Dortch, Secretary of the Federal Communications Commission at 2 (Mar. 27, 2012).

²⁶ *Id.*

²⁷ Marine Exchange Letter.

²⁸ Letter from Thomas Mack, President, Aleut Corporation, to Marlene H. Dortch, Secretary of the Federal Communications Commission at 2 (Mar. 28, 2012).

²⁹ See Adak Eagle Enterprises, LLC Request for Confidential Treatment and Confidential Submission of Information at Exhibit 1 – Alaskan Congressional Delegation Letters, *Letter*, WC

Companies are a lifeline for Adak Island, and beyond that, their operations enhance the quality of life in a remote part of the country exactly as envisioned by Congress in creating the Universal Service Fund (USF).

Universal Service/RUS Loan Program: The Administration has also emphasized the importance of the USF, and in particular, the important efforts by the U.S. Department of Agriculture to offer consistent and reliable funding mechanisms for companies providing communications service to such remote and hard-to-serve areas through its loan program administered by the Rural Utilities Service (RUS) to facilitate economic development in rural areas.³⁰ For example, the Department of Agriculture under Secretary Tom Vilsack has recognized the use of RUS funds to facilitate broadband access in rural communities as a top priority.³¹

Docket No. 10-90, et al. (Aug. 22, 2014)(noting that “AEE and WCC have reduced the number of their employees by half and were forced to close their only retail store on the remote island of Adak,” each of which is contrary to the Administration’s focus on job creation).

³⁰ See *Strengthening the Rural Economy - Strengthening Rural Infrastructure*, Council of Economic Advisors (available at <http://www.whitehouse.gov/administration/eop/cea/factsheets-reports/strengthening-the-rural-economy/strengthening-rural-infrastructure>). Similarly, Commissioner Pai has also spoken out about the need for consistency and predictability in distributing USF funds that will allow rural companies to plan their long-term investment goals for the future. Statement of Commissioner Ajit Pai, Federal Communications Commission, before the U.S. Senate Committee on Commerce, Science, and Transportation (March 12, 2013) (“Unlike the urban environment, rural carriers must carefully plan their infrastructure over a five-, ten-, or twenty-year time scale if they are to recover their costs ... [W]e need to think long and hard about the statutory command that universal service be “predictable.””). Along those same lines, Commissioner Clyburn has advocated for certainty and predictability in awarding Universal Service funds, stating, “[i]mportantly, our reform carefully balances the need for certainty and predictability for carriers by avoiding flash cuts and providing transitions so they can adjust to the changes.” See, e.g., Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, at 3-4 (May 14, 2013). In addition, Commissioner Rosenworcel has made similar comments: “I worry that our reforms to the high-cost universal service system are extremely complex. *I fear that this complexity can deny carriers dependent on this system the certainty they need to confidently invest in their network infrastructure.*” Statement of Commissioner Jessica Rosenworcel on the Universal Service Reform Implementation Report (Nov. 14, 2013), available at: <http://www.fcc.gov/document/rosenworcel-statement-presentation-caf-implementationreport>.

³¹ *USDA Announces \$59 Million in Loans and Grants to Increase Economic Opportunity, Support Rural Microenterprise Development*, News Release (Sept. 24, 2014)(USDA Rural Development Acting Under Secretary Doug O’Brien explaining that with regard to loans and grants to support rural business activities, “[t]hese innovative programs increase economic opportunities in rural areas – a top priority of Secretary Vilsack and President Obama.”)(available at: <http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2014/09/0206.xml&printable=true&contentidonly=true>); *USDA Announces Funds to Provide Broadband in Unserved Rural Communities*, News Release, (Oct. 24, 2013)(available at:

AEE is a model example of how USF support and an RUS loan can work together to make life-preserving access to voice and broadband service possible, and in turn, support jobs and a fledgling economy. The services provided by AEE are newly initiated, and the relevant investment expenses were only recently made. The wireline service has been in place just eight years, the broadband service only five years, and the wireless service only four years. Indeed, the original loan grant from RUS in 2005, through which ATU built the fiber network on the Island, was conditioned on ATU receiving immediate USF support from the National Exchange Carrier Association, Inc. to ensure that AEE would have an adequate revenue base to repay the loans. The RUS loan remains outstanding, and without a waiver for ATU, AEE will default.

In a letter from John Charles Padalino, Administrator of the Rural Utilities Service, to then FCC Chairman, Julius Genachowski, Padalino explains that “[r]ural-based industries . . . rely on broadband, often provided by Rural Utility Service (RUS) borrowers, to remain globally competitive,”³² and that “[c]urrent and prospective RUS borrowers have communicated their hesitation to increase their outstanding debt and move forward with planned construction due to . . . reductions in USF Support and Inter-Carrier Compensation (ICC) payments,” and that, as a result, demand for RUS loan funds dropped to roughly 37% of the total amount of loan funds appropriated by Congress in FY 2012.”³³ In a subsequent letter, Padalino explained the need to reform the waiver process, referencing this very waiver proceeding.³⁴ In that letter, Padalino noted:

It is unclear, however, how the FCC uses specific metrics and standards to determine the merit of each carrier’s petition. We encourage the FCC to modify the existing waiver process in order to create a more transparent process for all carriers. For example, FCC’s denial of Adak Eagle Enterprises’ waiver application puts this RUS loan at risk for potential default. FCC’s reasoning, in part, sets bad precedence that all other outstanding RUS loans to rural providers may be treated in the same manner. We believe that in instances where Federal debt is at risk due to a denied waiver, RUS should be given deference during that decision-making process.³⁵

The Commission was sensitive to the importance of the RUS loan portfolio, and in the waiver standard set forth in the *USF/ICC Transformation Order*, specifically directed the Bureaus to “consider whether the specific reforms would cause a provider to default on existing loans and/or

<http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2013/10/0201.xml&printable=true&contentidonly=true>).

³² Notice of Ex Parte Letter from John Charles Padalino, Acting Administrator, Rural Utilities Service at 1 (Feb. 15, 2013) (Feb. 2013 Padalino Letter).

³³ Feb. 2013 Padalino Letter at 2.

³⁴ Aug. 2013 Padalino Letter at 3 (Aug. 14, 2013).

³⁵ *Ibid.*

become insolvent” in the evaluation process.³⁶ Unfortunately, in denying the Companies’ request for waiver, the Bureaus disregarded ATU’s substantial RUS loan and the undisputed fact that the USF reforms, without relief through the waiver process, would cause a default.³⁷

In conclusion, the Companies embody the very purpose of Universal Service funding and the RUS loan program. ATU has diligently invested the loan provided by RUS to create a fiber network that makes all communications services on the Island possible. The Companies have reinvested USF support to maintain essential services and to provide quality telecommunications service to Adak Island.

AEE understands and respects that USF funding is limited and precious. AEE has made sure that the funding it has received is invested into providing the most comprehensive service available on the Island and has diligently taken steps to comprehensively address the concerns raised by the Bureaus.³⁸ For example, the Companies have slashed corporate salaries (even though they were reasonable relative to NTCA and Alaska Department of Labor salary ranges), placed AEE’s administrative building on the market for sale (even though AEE was paying below market rent for the building), cut staff by more than half, reduced employees’ weekly hours, largely eliminated travel

³⁶ See Connect America Fund, et al., WC Docket No. 10-90, et al., *Report and Order and Further Notice of Proposed Rulemaking*, 26 FCC Red 17663, Section VII(G) ¶ 544 (2011) (*USF/ ICC Transformation Order*).

³⁷ The Bureaus improperly concluded in their denial that even if AEE defaulted on its RUS loan, the “cost” of defaulting would be “far more than offset by savings to the USF.” See Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, *Order* at n.72, Petitions for Waiver of Certain High-Cost Universal Service Rules, WC Docket No. 10-90 and WT Docket No. 10-208 (rel. July 15, 2013). The Bureaus offered zero analysis to support this strange conclusion, and did not appear to take into account the greater economic impact to the Adak community or the cost of the public safety impact to the Island and surrounding region if all communications on the Island simply ceased to exist. As stated in the Companies’ Application for Review, and as reflected in the Aug. 2013 Padalino Letter, the Bureaus’ decision to disregard the RUS loan was improper and inappropriate. See Application for Review at 8-10; Aug. 2013 Padalino Letter at 3. As explained on the RUS website, these loans serve a broad purpose, providing “funding opportunities [to further] the development and commercialization of vital utility services. These programs revitalize rural communities with a variety of infrastructure improvements, and create sustainable opportunities for wealth, new jobs, and increased economic activity in rural America.” Moreover, the services enabled by RUS loans “can help rural areas expand economic opportunities and improve the quality of life for rural residents,” and “result[] in billions of dollars in rural infrastructure development and create[] thousands of jobs for the American economy.” USDA Rural Development (available at: http://www.rurdev.usda.gov/Utilities_LP.html; http://www.rurdev.usda.gov/Utilities_Assistance.html).

³⁸ See Reply to Opposition at 2.

and training expenses, canceled construction of an additional cell site, and operated without expensive backhaul redundancy as a result of their reduced funding.³⁹

AEE has submitted further information in response to additional information requests,⁴⁰ and is hopeful that the Bureaus will grant the waivers requested based on the information in the record. Recent events demonstrate the critical public safety importance of WCC, which cannot stay in operation absent a waiver. Equally important, the long-term economic life of the remote Adak community is dependent on the essential wireline, wireless, and broadband services provided through AEE.

Respectfully submitted,



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³⁹ See Adak Eagle Enterprises, LLC Petition for Reconsideration at 5-9, WC Docket No. 10-90 and WT Docket No. 10-208 (Aug. 14, 2013); see also Adak Eagle Enterprises, LLC, and Windy City Cellular, LLC, *Notices of Ex Parte*, WC Docket No. 10-90 and WT Docket No. 10-208 (Sept. 20, 2013 and Oct. 23, 2013).

⁴⁰ The Companies received additional requests for information by letter from the FCC on August 12, 2014, and subsequently by phone on September 29, 2014. In response, the Companies quickly provided data and explanations to address the additional FCC inquiries. See Adak Eagle Enterprises, LLC Request for Confidential Treatment and Confidential Submission of Information, *Letters*, WC Docket No. 10-90, et al. (submitted Aug. 22, 2014; Sept. 9, 2014; Sept. 12, 2014; Sept. 30, 2014; and Oct. 9, 2014).